

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA**

LAWRENCE MARBY,

Petitioner,

v.

**Civil No. 1:07cv171
(Judge Keeley)**

WAYNE A. PHILLIPS, Warden,

Respondent.

**ORDER GRANTING IN FORMA PAUPERIS BUT REQUIRING
PETITIONER TO PAY THE \$5.00 FILING FEE**

On December 13, 2007, the *pro se* petitioner initiated this case by filing a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241. On January 4, 2008, the petitioner filed a Motion for Leave to Proceed *in forma pauperis* and a certified copy of his prisoner trust account report with ledger sheets.

All litigants are required to pay the costs and fees associated with civil lawsuits unless their financial condition warrants a grant of *in forma pauperis* status pursuant to 28 U.S.C. § 1915. On December 18, 2007, the date the petitioner signed his petition, he had \$51.85 in his prisoner trust account. Furthermore, his previous six months deposits total \$983.30, for an average of \$163.88 per month. In addition, his average daily balance for the previous six months was \$38.15, while his average balance for the previous thirty days was \$60.74, with a maximum balance during that period of \$132.00.

Accordingly, the petitioner is GRANTED *in forma pauperis* status. However, because petitioner's trust account history reflects that he has income sufficient to pay the required filing fee,

petitioner will be required to pay the \$5.00 filing fee within **twenty (20) days** from the date of this Order. **Failure to pay the \$5.00 fee within the required time period will result in a recommendation that his case be dismissed.**

IT IS SO ORDERED.

The Clerk is directed to send a copy of this Order to the *pro se* petitioner by certified mail, return receipt requested, to his last know address as reflected on the docket sheet.

Dated: January 7, 2008.

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE